

**W. M. SMITH
TELLS**

**WHY HE
BELIEVES**

**CONLEY IS
GUILTY**

Attorney for State's
Chief Wit-

ness Against Frank
Gives

Written Statement of
His
Conclusions

NO TEST EVER MADE
OF STAINS ON
SHIRT

Discovery Started
Attorney to

Investigating—
Smith's Evi-

dence Can't Be Used
in New

Trial Fight

William M. Smith, attorney for Jim Conley, Saturday night gave to the press a written statement, telling how he came to the conclusion that Conley, his client, is guilty of the murder of Mary Phagan and not Leo M. Frank, who has been convicted and sentenced for the crime. Mr. Smith's statement in full follows:

The unfortunate publicity given my personal opinions as to the Frank Case, is much to be regretted. My personal opinion is not evidence and legally should not have a feather's weight. It was never my purpose, unless absolutely necessary, to save human life, to give public expression of my views. Such suggestions as occurred to me, it was my intention to privately offer, that the truth might be known, through official action of the public agencies of the law.

In an effort to inspire further search, I was compelled to speak in confidence to some, in whom I had every right to rely. There has been a give way somewhere along the line, possibly through some misunderstanding, for I would dislike to believe that there was a willful betrayal, in order to accomplish a thwarting of my purposes, and a handicap to my endeavors.

While willing to face the crucifixion of blind prejudice and petty slander, it appeared best to me, to help those from whom the public had a right to demand the truth and to whom the public would be more willing to listen, and who have the power to learn the truth, if they will only rise to the needs of the hour.

NO BLOOD TEST MADE.

This crime occurred April 26, 1913. James Conley, a Negro employee, was arrested by City Detectives McGill and Coker, after conference with Chief of Detectives Lanford. He was arrested May 1, 1913, being discovered washing his shirt, upon which it was suspected there were stains of the blood of this little girl. A charge of "suspicion" was entered against him upon the police

records. Until recently I thought a scientific test was made but find that the bloody shirt was returned to Conley without examination by the City Bacteriologist as was done with Newt Lee's shirt. So far as can now be known this Negro was washing from his shirt the life blood of Mary Phagan. This was a surprise to me that no scientific test had been made.

During the thirty days after Conley's arrest, he made several varying written affidavits and admissions to the police. During this period Conley had no lawyer, and all of his written statements made to the police, prior to my employment, embodied practically the

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STAINS ON CONLEY'S SHIRT NEVER TESTED FOR
BLOOD---SMITH

W. M. SMITH TELLS WHY HE BELIEVES CONLEY IS GUILTY

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entire substance of his later testimony against Frank.

On May 30, 1913, a tentative written agreement was made between the woman who represented herself as Conley's wife and myself for me to represent Conley, subject to Conley's ratification, and with the understanding that my compensation was to be cared for by certain interests, who originally solicited my services in Conley's behalf. With the wife, Lorena Conley, I visited the Fulton County jail, the night of May 30, 1913, and saw and talked with Conley for the first time.

Receiving from Conley ratification of my employment, practically my entire communication with him at that time was relative to a policy of silence that I advised he should adopt. The next morning I immediately advised Chief Lanford, and Solicitor General Dorsey of my employment and assured them as Conley's Counsel, I would throw no stumbling block in the way of their effort to find the truth—that personally and professionally, it would be my purpose to help throw all light possible into the search. These gentlemen, as was Judge Roan, were acquainted with the names of those financially back of my employment, and given a history as to how I was retained as Conley's Counsel.

Immediately, I set in motion machinery that transferred Conley from the county jail back to police headquarters. I did it in a sincere effort to protect Conley from the perjury of his fellows, and in an effort to have him protected and given a square deal. This was done and only such officials admitted to see Conley as were approved by me. Out of an abundance of caution, on account of the Pinkerton agency's employment by the National Pencil Factory, I had them barred.

PROTECTED CLIENT'S INTERESTS.

These actions on my part were a result of my conception of my professional duty, in giving this Negro a fair fighting chance. From the date of my assuming this Negro's defense to the close of his Case, I have stood by him and safeguarded and protected his every interest, at great sacrifice of time and labor. No man,

lawyer or layman can point out a stone I left unturned in his defense. I sacrificed the compensation I was to receive from interests worth millions, rather than possibly jeopardize this Negro's interest by premature publication. I was paid about \$40 by some Negro church members, who expressed themselves as desiring only a square deal for him.

This is not mentioned as self praise. It was no more than any honest lawyer should do. It is advanced now for the sole purpose of showing the public that I am entitled to a fair and unprejudiced study of my views.

As Conley's Counsel and later as a lawyer and student much of my time and best thought have been invested in a painstaking analysis of the known facts and in an independent investigation. Few people have had better opportunities to learn the truth and no one has worked harder, I know.

Whatever solution is made of this crime must be the right solution. Regardless of the personal or professional estimate you may have of the writer, or the motives that may or may not underlie an expression of his views, though you may believe he is influenced by money, political promise or other influence, the intelligent will at least consider, and then weighed in the balances, if they are not found wanting, the public will accept the truth of the Frank Case, though the student who helps to dig it out, be the devil himself. Regardless of public conjecture, there is a personal consciousness of which I am proud, that the same spirit for the right that has thus far led me in the discharge of my duty to Conley, is the compelling force that drives me further to learn the truth about this crime and to dare express the same.

Fully aware of the possibly grave public censure that may be mine and wreck of my professional career which may ensue, I have not decided on this course of public expression of my views without expenditure of untiring labor, and effort for facts that will have the unmistakable ring of truth. I am sensible that mistake of judgement on my part would tend to injure me ruinously and heap much damage upon the cause of truth which I seek to serve.

I have consulted with my seniors in my profession of the highest integrity and learning.

IS A COMPETENT WITNESS.

Conley gave his story to the world voluntarily and in writing before I became his attorney. He voluntarily went under oath as a witness in open court as to the details of his account of the crime. As a matter of fact, therefore, there exists no confidential limitations upon me as his attorney. Under the law, I am both a competent and compellable witness to testify for or against Conley as to any matter or thing which I may have acquired in any other manner than in confidence.

The public may desire to know why I have waited so long to express my views of this Case. One reason is that it has been just within a comparatively short time that my whole duty to Conley has been discharged and my relations as his attorney closed.

As far as Conley is concerned, I have placed the bar against any further prosecution of him. The state with the light then before her made charges against him and they have been met. Conley can never be tried again on this transaction. With the light then before me, I represented him and my duty as his lawyer has been discharged.

It may seem strange to some that the light has not fallen across my path during all these months. In the first place the solicitor declined from the very first to allow me to be present when he talked with Conley. A large part of the evidence offered by the state at the trial of Frank was as much news to me as it was to the general public. I was not in position to be present at all the trial, was in the courtroom but a small portion of the time while Conley was on the stand. I heard a part of Mr. Dorsey's speech and none of the other speeches. I was confident of the state and only recently have I had opportunity to analyze even the testimony of Conley.

I have given more than a month's study at night to the testimony of Conley alone, using a card-filing system and

dissecting his every statement, and grouping it under proper heads.

Many will desire to know what prompted me to take up this work. The worst of us want to do what is right. I found any number of people who believed I had trained Conley in his story. This carried the inference that I had assisted this Negro in framing a series of perjuries to save him from punishment and to assist him in judicially murdering Frank that he might be saved. This was offensive to me in the extreme to think that anyone could believe that I would join in perjury and murder for professional preferment. This made me more thoroughly determined to know and do the right in this Case.

These and other influences added to my personal misgivings, emphasized the right course.

CONLEY DIDN'T TELL ALL.

In the first place as to my misgivings, I felt that there was something held back by Conley, and about which he wanted to talk to a woman. He would not let me know about it and would not let me carry the message to her. This so struct me and I was so anxious to learn the real truth about this Case that I went to Chief Lanford and explained to him how I felt about it. Following his directions, I carried the woman to the station house and Chief Lanford placed Detective Vickery over Conley's cell to overhear the conversation between Conley and his woman. The lights were lowered, and this aroused Conley's suspicion, and he struck some matches when he was replaced in his cell. He discovered Detective Vickery on top of his cell. Thus, the plan fell through, but I have always felt that there was something about this crime that Conley wanted to tell that woman and that he dared not tell even me. I have felt that possibly he wanted to tell her something that she might cover up some trace of the crime. I felt I was going a long way to assist the police to eavesdrop Conley, but I did it in the interest of truth in hunting the murderer of little Mary Phagan.

Another reason is that Conley declined to allow his picture to be taken for publication, although both Chief Beavers and I assured him that we knew of no reason why it should not be done. I have always felt that he did not desire his picture shown for fear that someone had seen him coming in or going out of the factory and would identify him.

I also knew that even after Conley had made all of his written admission and statements and after he had tried to see Frank at the jail and after he was compelled to know that any alleged hope he might have been expecting from Frank was gone that Conley still persisted in lying about the time he was at the factory until almost the very time of the trial and until after the Detectives had discovered that Mr. Darley and Miss Mattie Smith were at the factory prior to the time Conley admitted seeing them. In fact, Conley never did get, his time element straightened out.

MYSTERY OF COTTON SACK.

It has always been a mystery to me what became of that cotton sack that Conley says he wrapped Mary Phagan in and carried her down to the basement. He says he got this cotton sack on the second floor and carried it to the basement and left it there, yet it was never found in the basement or elsewhere, and I have never believed that the Statement about the sack was the truth.

The back door of the basement broken open within a few feet of the body of the dead girl, in the direction that Conley would go if he had gone home, has never been solved to my mind. Conley swears that he sometimes used this as a means of exit and the state proved that Frank left by the front door.

Since I heard the statements of Dr. Harris in his office, I have never believed that the hair found on the lathe was the hair of Mary Phagan or had anything to do with her death. I cannot remember the details or what Dr. Harris and others said, but I distinctly remember the startling impression made upon me at

the time by the language employed, indicating that the hair was unquestionably not that of Mary Phagan.

Reading the official record recently, I was amazed to learn that Conley charged Frank with immorality with Daisy Hopkins two of the five times Conley says he watched, for Frank. I know Daisy Hopkins, have represented her, have watched and studied Frank, and I know the types of the two people, their stations in life, their manner of living, their personal accomplishments and appearance, and I know as much as I can know anything in life without actually having been present, that Conley's statements as to this are untrue.

When Conley stated that he was not familiar with the newspaper accounts from time to time as published in the papers and that he could not read them sufficiently well to understand them, I knew this was not true. I furnished him practically all of the newspapers carrying these stories and sometimes gave him as many as three in one day. I know that he read them sufficiently well to grasp the thread and that he did have the opportunity from a newspaper source to post himself.

Visiting the factory, I was impressed with the fact that I did not believe that Conley, sitting as he says he was, at the foot of the stairs on the first floor, could have heard any screams from the metal room, or tip-toeing from the office to the metal room or back.

I experimented with the question of the soiling of Mary Phagan's face was so black with dirt or soil that it was necessary to look at protected portions of her limbs to discover whether she was white or black. I can understand how her face could have been completely soiled by a struggle on the dirt floor of the basement while alive and fighting for her honor, but I have been unable to understand how the hollows of her face could have been so soiled upon a hard surface like the wooden floor of the metal room. The dirty floor of the metal room would have soiled her cheeks, the end of her nose and other prominent parts of her face, but how the depressions in her face became black, even the

hollows of her eyes on the wooden floor, is difficult to believe, especially when Conley swears that when he found her, her face was already dirty and that she was lying on her back with her face turned up.

FRANK NOT A PERVERT.

I have never believed Frank was a pervert. Conley never mentioned it to me before his testimony on the stand. I stood on the steps where Conley claims to have been standing, and I do not believe that it was physically possible for him to have observed from that viewpoint even if any improper act had been occurring.

Examining the factory building, I find no hole that fits the description in the death note more completely than the hole by which Conley swears he sat all day and by which Mary Phagan passed going in and must have passed to come out.

The missing purse, hat, ribbon and flowers have always impressed me as Conleys' part of the spoils.

Upon a comparative study of the death notes with the evidence of Conley and Frank with the Annie Maud Carter notes I am convinced that the language of these notes is Conley's language and that Frank had nothing to do with their preparation.

These and other things that developed as I studied created in my mind a strong conviction that a mistake of justice had been made, and I feel that with a proper consecration of effort on the part of all and especially those whose duty it is to have justice done that the tangled skeins of the mystery around this affair can be worked out.

Within a few days, I will be prepared to submit the results of my study of these notes. With this matter still pending in the courts, as a lawyer I doubted the propriety of making my statement and felt that it was my duty to work quietly and let the results of my efforts be used in a more appropriate way.

In justice to the situation which has been forced upon me, at least this statement is necessary at this time. No doubt there are many who are severely criticizing what I have been unable to prevent, that is the publication of my opinion, but I am willing to face the issue, and it is my purpose to continue to do all in my power toward the righting of the wrong that I believe has been visited upon Frank. I have other matters upon which I am investigating and in due time will present them for proper consideration.

Smith's Revelations

No Basis for Motion

Any new evidence on which William M. Smith, Counsel for Jim Conley, bases his charged that Conley is the real murderer of Mary Phagan, can be used only before the governor and a pardoning board, or in event the Supreme Court of Georgia grants Leo M. Frank, a new trial on the extraordinary motion, the record in which is closed. On this point, all lawyers seem to agree.

The Case cannot again be brought into the courts on new evidence, and even if Conley confessed to the murder and was willing to make his confession to any tribunal, it would only benefit Frank in that way. One of the paradoxes of the law is, however, that according to many lawyers, that Conley could be tried for murder if new evidence develops.

The extraordinary motion for a new trial in the Frank Case has already been made and argued before the Supreme Court and for many weeks a decision by that tribunal has been pending. That, according to lawyers, is the one and only extraordinary

motion which can be made on the ground of new evidence, and the record on that was definitely and finally closed in the superior court.

MUST GET NEW TRIAL.

Of course, if Frank is granted a new trial by the Supreme Court, any evidence discovered after the first trial could be submitted in the second trial in the superior court, but the evidence already before the courts.

Besides the motion on the grounds of new evidence, Frank also has pending before the Supreme Court the motion to set aside the verdict on the grounds that he was not in court when it was rendered. If this motion is sustained, Frank wouldn't need the new evidence of Mr. Smith or anyone else, since attorneys say he would be set free and could not be tried again for the crime.

Mr. Smith says that he and C. C. Tedder, who has been employed by him as an "evidence man" and who is also in the employ of the Burns agency, were at the Isle of Palms this summer, when they wired Detective Burns asking him to assist in the search for the Nelms sisters, in whom Mr. Smith was interested, and offering in return to assist Burns in the Frank Case.

Practically since that time, Mr. Smith is said to have had the assistance of Dan S. Lehon, the Burns agent, in working on the Case.
